

FILED

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PATRICK E. DUFFY, CLERK

By _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JAMES LEE LARSON,)	CV 08-45-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
DR. JEFF RITTOW, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff Larson, a state prisoner proceeding pro se, has filed this action under 42 U.S.C. § 1983 alleging violation of his Eighth Amendment rights. Larson alleges that prison officials have ignored his mental health condition and that he was placed in isolation for no reason.

United States Magistrate Judge Keith Strong conducted preliminary screening of the Amended Complaint as required by 28 U.S.C. § 1915(e)(2). Under that statute, the court engages in a preliminary screening to assess the merits of the claims and identify cognizable claims, or dismiss the complaint or any portion thereof if the complaint is frivolous, malicious, or fails to state a claim upon which relief can be granted.


Judge Strong found that the Amended Complaint states claims

sufficient to require the Defendants to file a response. Judge Strong issued Findings and Recommendations in which he concludes that the Defendants who were named in the Complaint but not named in the Amended Complaint should be dismissed without prejudice. Plaintiff did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Strong's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that Defendants Mike Mahoney, Dave Lenning, Ken Neubauer, James Gamble, Sgt. Johnson, and Sgt. McCune are DISMISSED WITHOUT PREJUDICE.

DATED this 11 day of December, 2008.



Donald W. Molloy, District Judge
United States District Court

